

## **Report to Joint Legislative Budget Committee Regarding The Delta Protection Commission**

The 2003-2004 Budget Bill requires the California Resources Agency (Agency) to report to the Joint Legislative Budget Committee, on or before December 30, 2003, on the status of the Delta Protection Commission (DPC) and its projected future workload.

The report mandates Agency to respond to the following:

- The powers and duties of the DPC and its accomplishments to date.
  - The impact on the agricultural resources, environmental, and recreational opportunities of the Delta in the absence of the Delta Protection Commission.
  - An analysis of various ideas regarding the future organization of the Delta Protection Commission, including but not limited to mission, membership, and funding, focused on the goal of increasing cooperation and consensus, and to better reflect the State's working relationship with local governments, landowners and other public and private entities in the Delta given the changes that have taken place since the creation of the Commission.
- 1) Plans for continued efforts to protect agriculture, wildlife habitat, and recreational activities;
  - 2) Ways to facilitate coordination with other agencies such as the California Bay-Delta Authority;

### **Summary**

This following report offers specific suggestions as to how the DPC may be modified in its scope and membership to better protect the agricultural, environmental and recreational qualities of the California Delta. Modification of the DPC membership to include specific seats for agricultural, environmental and recreational interests has been suggested. A seat has also been recommended to serve as a representative for the various unincorporated and historically significant communities within the Delta. Also, a recommendation is provided to expand the scope of the DPC's interest area to include critical areas of the Secondary Zone in order to protect the more sensitive resources of the Primary Zone from development pressures which will occur, over time, around its periphery. Lastly, the report suggests that the regional Delta member of the Bay-Delta Authority also serve as a member of the DPC in order to provide for better communication between the two entities.

## **1. Powers And Duties Of The DPC And Its Accomplishments To Date.**

The Commission is authorized to do the following:

- Hold regular, public meetings
- Adopt rules, regulations and procedures
- Appoint advisory committees
- Establish and maintain an office in the Delta
- Appoint an Executive Director
- Promote, facilitate and administer acquisition of voluntary private and public wildlife and agricultural conservation easements
- Apply for and accept federal, state, and other funds
- Prepare and adopt, and thereafter review and maintain a comprehensive long-term resource management plan for land uses in the Primary Zone
- Ensure that local general plans are consistent with the adopted resource management plan

The Commission has accomplishments in a variety of areas:

- Established a Regional Dialog: The Commission started its regional planning activities by establishing three Citizens Advisory Committees, setting up working relationships with agencies, special districts and interested groups and citizens throughout the region.
- Adopted a Regional Land Use Plan: At the end of the planning process the Commission had accepted nine background reports, and unanimously adopted its *Land Use and Resource Management Plan for the Primary Zone of the Delta*. The Commission has worked with the five Delta counties and three cities to ensure that their general plans are in conformance with the regional plan.
- Protected the Vision of the Regional Plan: The Commission has aggressively supported protection of the Primary Zone including discussions with several cities that have proposed adding lands in the Primary Zone in their city limits or spheres of influence. To date, there have been no appeals.
- Continued to Evaluate Delta Land Uses: The Commission has continued to develop information about the Delta and its land uses. The Commission prepared a report, with the Department of Boating and Waterways, on recreational users, an inventory of boating facilities and an economic analysis of Delta recreation.
- The Commission provides mapped, written, and oral information to the greater public. Information is available on the web site and in written form. The Commission's office is open to the general public for information, advice, and assistance. Staff is often asked to speak before groups in and around the Delta.

- **Promoted Local Implementation:** The Commission has supported many efforts of individuals and groups to pursue projects that support the Commission's regional vision, including restoration, public access and research projects.
- **Developed Partnerships:** The Commission has worked with agencies and nonprofits to pursue its regional vision and plan, including a partnership with San Joaquin Resource Conservation District to create a Resource Conservation and Development Council, and with American Farmland Trust to study Delta agriculture.
- **Served as a regional coordination forum for implementation of the CALFED Program:** The Commission has participated in the multi-year planning process, and has offered to serve as coordinator for public participation in the implementation of the CALFED process in the Delta region.

## **2. The Impact On The Agricultural Resources, Environmental, and Recreational Opportunities in the Delta in the Absence of the Delta Protection Commission.**

The Commission was established by the Legislature to coordinate the lands uses regulated by local governments in the Primary Zone of the Delta, and to protect the natural resources of the Delta, including agricultural lands, recreational values, and wildlife habitat. If the Commission were to be disbanded, or no longer funded, several impacts may occur, including:

- There would no longer be one entity charged with oversight of the regional land use plan. The Commission is charged with updating the plan, as required, and reviewing local government actions to ensure conformance with the regional plan. This includes the ability to hear appeals of local government actions and if necessary return projects to local government for revision to ensure conformance with the regional plan.
- If the legislature wants to continue to protect the Delta Primary Zone, another agency would need to be designated to oversee implementation of the regional plan.
- Without the Commission, or another agency taking responsibility for the regional plan, there could be an erosion of the regional plan's vision through independent requests for changes to local general plans and annexations into the cities surrounding the Delta Primary Zone. Without the Commission, each local government would return to reviewing projects in its local context, and would no longer have an incentive to address regional issues or impacts.

- There has been and continues to be interest at the city level in adding areas in the Primary Zone to City limits or spheres of influence. It is likely additional areas/islands would be proposed for urban development similar to that proposed on Stewart Tract in the Secondary Zone (River Islands Project), for treatment or disposal of urban runoff or wastewater and/or biosolids as was proposed previously by the City of Lathrop and City of Lodi, or possibly for mitigation for urban development.
- The opportunity to coordinate planning in the Delta region would be lost. Individual jurisdictions would address their individual needs and issues, and agencies and individuals would pursue projects independently. Coordination would be through prescribed means such as review of environmental documents and in some instances through public meetings. Many projects would not be reviewed or discussed beyond the local area of interest.

### **3. An Analysis of various Ideas Regarding The Future Organization Of the Delta Protection Commission, Including But Not Limited To Mission, Membership, And Funding, Focused On The Goal Of Increasing Cooperation And Consensus, And To Better Reflect The State's Working Relationship With Local Governments, Landowners And Other Public And Private Entities In The Delta Given The Changes That Have Taken Place Since The Creation Of The Commission.**

#### **A. Mission**

Agency generally believes that the original mission and membership composition of the Delta Protection Council (DPC) has served the people and natural resources of the Delta well during its ten-year history. However, increased urbanization within and surrounding the Delta and expanded statewide interest in the natural, cultural and recreational resources of the region justify a re-examination of the structure, roles and responsibilities of the DPC. Nonetheless, Agency recognizes that many of the following recommendations, with the exception of changes in membership, can only be achieved if the DPC were to receive additional funding to augment their existing budget. If funding were not available, either through existing sources or new ones, these suggestions would simply overburden the DPC and degrade the public value they currently serve.

There has been considerable discussion involving the role of the DPC related to development projects that fall within the Secondary Zone, which is defined as all Delta lands and waters within the legal boundaries of the Delta not included within the Primary Zone. Agency recognizes that the DPC's original mandate was focused on the protection of agricultural, wildlife and recreational resources within the Primary Zone. Nonetheless, the legislature and interested public have shown increased interest in having the DPC become more engaged in land use issues which fall within the Secondary Zone, yet will, over time, cumulatively impact the resources of the Primary Zone. Representatives of both the California Farm Bureau and Delta Protection Commission testified at a November 12 hearing of the Senate Select Committee on Delta Resources and Development, stating that the DPC required a "new set of tools", and additional

financial resources, to adequately address Secondary Zone land use concerns, if the legislature were to give them expanded authorities within the Secondary Zone. Farm Bureau also asserted that the DPC could be “more proactive” as it relates to development within the Secondary Zone.

If additional funds could be identified, Agency would suggest that the legislative scope of the DPC’s area of interest be expanded to provide them clear direction and authority to comment, and potentially take appellate action, on any land use issue or development within the Secondary Zone which the Commission deems to be potentially impacting to the resources of the Delta. In that regard, consideration could be given to amending the regional land use plan to define areas of Secondary Zone interest, particularly as it relates to Secondary Zone lands contiguous to the Primary Zone, and subsequently require local governments to amend their general plans to reflect these changes.

Consideration could also be given to expanding the DPC’s interest in the orderly planning and historic preservation of unincorporated communities within the Delta, such as Locke, Walnut Grove, Courtland, and Clarksburg. As recreation is a key element of the DPC’s mission, the maintenance of the cultural integrity and aesthetics of these communities are vital to the future of recreation related tourism in the region. DPC may wish to give consideration to working with the State Historic Preservation Office in the development of a regional plan. Such a role would be consistent with the recreational mission of the DPC.

## **B. Membership**

Currently, the DPC consists of 19 members composed of elected supervisors, city council members, reclamation district representatives, and a variety of state agencies. While it appears that this membership composition has generally worked well, concerns have been raised that the current membership does not provide for specific representation by environmental, recreational, and historic preservation interests. Also, while the unincorporated areas are represented through five boards of supervisors, there is an interest in providing a more direct voice for the culturally and historically important unincorporated communities within the Delta. Similarly, recognition of the immense cultural and historic resources of the Delta would be furthered by a specific category of representation on the Commission focused on this important, but often overlooked, Delta attribute.

Agency recognizes that there are a myriad of combinations for possible membership scenarios for the DPC, including maintaining their current structure. As one alternative, Agency would suggest a refinement of the current structure in the following manner:

- Two seats for agricultural interests (one of which must be a landowner or represent landowners within the Primary Zone);
- Two seats for environmental interests (one of which must live within or have interests in the Primary Zone);

- Two seats for recreation interests, one of which must represent historic preservation interests;
- Two seats for reclamation district representatives, chosen through a selection process established by the five reclamation districts in the region;
- Five seats for the boards of supervisors from each of the five Delta counties (one from each county);
- Three seats for city council members, one of each being chosen by city selection committees from the incorporated communities within the north Delta, south Delta; and west Delta;
- One seat representing unincorporated communities within the Delta, chosen through a selection process established by the citizens advisory committees for those communities;
- One seat for the California Bay Delta Authority public member appointed by the Governor to represent the Sacramento and San Joaquin River Delta (Delta) Region:
- One seat for the Secretary of the Resources Agency, or their designee;
- One seat for the Secretary of Food and Agriculture, or their designee;
- Ex-officio seats (one each) for the Department of Parks and Recreation, Department of Water Resources, Department of Fish and Game, State Lands Commission, Department of Boating and Waterways, Reclamation Board, Department of Conservation, Army Corps of Engineers, Natural Resources Conservation Service, U.S. Fish and Wildlife Service, and National Marine Fisheries Service.

### **C. Funding**

Currently, funding for the DPC comes from a combination of Environmental License Plate Funds and Harbors and Watercraft Revolving Funds.

Local contributions through the five regional reclamation districts, as well as through counties and cities, will be important to consider in context of those activities which the DPC performs which are more regional in nature. Local government imposed mitigation fees tied to impacting development projects within the Primary Zone, and areas of the Secondary Zone, could assist the DPC in their interest in pursuing agricultural and conservation easements within more critical areas of the Delta. Funds could be collected through local governments and transferred to the DPC, which would then become lead agency in the expenditure of those funds for that purpose. Coordination with the Bay Delta Authority would be important in this regard so as to not duplicate any similar effort which may be under consideration by the Authority for a similar purpose.

## **1) Plans For Continued Efforts To Protect Agriculture, Wildlife Habitat, Recreational Activities.**

### **Agriculture:**

The Commission has identified the need to develop a strategy to protect and enhance Delta agricultural lands. Toward this end, the Commission has partnered with the American Farmland Trust to prepare an inventory of Delta agricultural resources and their economic value. The purpose of the plan is to identify lands that should receive additional attention and/or protection. Examples could include lands adjacent to the boundary of the Primary Zone, or lands with unique characteristics that should be maintained to protect particular habitat values, e.g. Sandhill crane habitat. The outcome of this study could be used to direct mitigation needed for proposed projects within the Primary Zone or outside the Primary Zone. In addition, the study could be used to implement the CALFED ecosystem restoration goal of protecting and enhancing 45,000-75,000 acres of wildlife friendly agriculture in the Delta.

In addition, the Commission partnered with the San Joaquin Resource Conservation District to prepare an application for formation and funding for a California Delta Resource and Conservation District, a non-profit entity with a federal funding base. This is a federal program under the Secretary of Agriculture. The RC&D would be able to carry out easement and other programs on private lands. The RC&D application is still under consideration by the Secretary of Agriculture. The RC&D did receive a \$10,000 grant to further its activities in the Legal Delta.

### **Wildlife Habitat:**

One of the key goals of the Delta Protection Act is to protect and enhance wildlife habitat. This is also a key goal of the Bay-Delta program. The Bay-Delta Ecosystem Restoration Program will support the protection and enhancement of wildlife habitat in the Delta Primary Zone. The Commission has worked to provide guidance and input into the Bay-Delta ERP programmatic plan. The Commission continues to provide guidance and input to the Delta Regional Ecosystem Restoration Implementation Plan currently being prepared by the Department of Fish and Game in cooperation with the California Bay Delta Authority. The Commission reviews and comments on proposed ecosystem restoration projects in the Delta with the goals of providing a process that includes public participation, ensuring that the proposed restoration projects will not adversely impact adjoining land uses, that the project will include recreation and access as appropriate, and that the design of restoration projects takes advantage of the unique Delta resources (Prospect Island, Yolo Bypass, proposed North Delta National Wildlife Refuge).

The Commission continues to participate in regional processes that promote habitat preservation and enhancement such as the on-going effort to update the Central Valley Habitat Joint Venture Plan. The updated plan will outline international and national goals for maximizing permanent and seasonal habitat on privately-owned lands in the Central

Valley. The outcome of this planning process can be integrated into the Commission's program and the Bay Delta program.

### **Recreation:**

The Commission has coordinated an Ad Hoc Recreation Committee of agencies and interested parties/stakeholders for several years. The group is working to develop a recreation vision and plan to be incorporated into the Bay-Delta program. The Commission recently received a commitment of \$225,000 from the Department of Boating and Waterways to prepare a Delta Recreation Master Plan. Final contract negotiations are underway and the consultant selection should start in early 2004. The Committee, which includes local, state, and federal agencies, boating and angler groups, water-oriented business owners and managers, and interested individuals, will provide input and oversight in preparation of the plan. As part of this planning process, the Commission will update its 1997 inventory of Delta recreation facilities.

In addition, the Commission has prepared and adopted an Interim Strategy for Review of Recreation as part of Bay-Delta projects. The Commission will review the recreation component of the South Delta Improvement Project in early 2004. In addition, the Commission reviews and comments on proposed recreation projects throughout the Delta.

### **2) Ways To Facilitate Coordination With Other Agencies Such As The California Bay-Delta Authority.**

The new California Bay Delta Authority was created by the Legislature to oversee and coordinate implementation of the CALFED Bay Delta Program. The Authority Board consists of representatives from 6 state agencies, 6 federal agencies (which are nonvoting members until Congress authorizes their participation), 7 public members, one member of the Bay Delta Public Advisory Committee, and 4 nonvoting, ex officio members of the Legislature. Five of the seven public members are appointed by the Governor to represent the five different regions of the program – the Delta, the San Francisco Bay, the Sacramento Valley, the San Joaquin Valley, and Southern California.

The Delta Protection Commission is not one of the 6 State agencies represented directly on the Authority Board, but is a member agency of the CALFED Bay Delta Program, and works closely with the Authority staff. There are 24 State and federal agencies participating in the CALFED Bay Delta Program. All of these agencies meet regularly with the Authority staff to ensure coordinated implementation of the Program.

In order to improve coordination of the Program in the Delta, Agency suggests adding the Governor-appointed Delta representative from the Authority Board to also serve as a member of the Delta Protection Commission. This would provide the DPC with additional assurances that their land use responsibilities would receive greater visibility in the context of the Authority.



### Delta Protection Commission Membership

	Current	Proposed
Reclamation District(s)	5 reclamation districts	2 agricultural 2 environmental 2 reclamation districts 2 recreation
Cities	3 city council representatives	3 city council members 1 unincorporated community representative
Counties	5 county supervisors	5 county supervisors
Agencies	Director of Parks and Recreation Director of Fish and Game Director of Boating and Waterways Director of State Lands Commission Director of Food and Agriculture Director of Water Resources	Secretary of Resources (or designee) Secretary of Food and Agriculture (or designee) Bay-Delta Authority Regional Member (Delta)
Ex-Officio Members (nonvoting)	Senate Rules Appointment Assembly Speaker Appointment	Department of Water Resources Department of Parks and Recreation Department of Fish and Game Reclamation Board State Lands Commission Department of Boating and Waterways Department of Conservation U.S. Fish and Wildlife Service Army Corps of Engineers National Marine Fisheries Natural Resources Conservation Service Senate Rules Appointment Assembly Speaker Appointment